

Atty Pape, Jeffrey B., of Pape &amp; Shewan (for Petitioner Valerie Vasquez, Trustee)

**Third Account and Report by Valerie Vasquez, Trustee; Petition for Settlement; Approval and Allowance of Trustee's and Attorneys' Fees [Prob. C. 17350; 17352]**

<b>Age: 15 years</b>	<b>VALERIE VASQUEZ</b> , Trustee, is Petitioner.		<b>NEEDS/PROBLEMS/COMMENTS:</b>
<b>DOB: 2/11/1998</b>	<b>Account period: 6/1/2010 – 5/31/2012</b>		
<b>Cont. from</b>	Accounting - <b>\$176,352.60</b> Beginning POH - <b>\$145,211.77</b> Ending POH - <b>\$151,815.63</b> (\$6,767.53 is cash)		1. Need original bank account statements as of the close of accounting period pursuant to Probate Code § 2620(c). –Filed 6/13/2012.  ~Please see additional page~
<input type="checkbox"/> <b>Aff.Sub.Wit.</b>	Trustee - <b>\$1,000.00</b> (less than .05% of value of assets as authorized)		
<input checked="" type="checkbox"/> <b>Verified</b>	Attorney - <b>\$2,000.00</b> (per Declaration and itemization at Exhibit B; less than itemized fees of \$3,569.50 for 12.10 hours @ \$295/hour;)		Reviewed by: LEG Reviewed on: 6/11/13 Updates: 6/14/13 Recommendation: File 1 – Moreno
<input type="checkbox"/> <b>Inventory</b>	Costs - <b>\$200.00</b> (filing fee)		
<input type="checkbox"/> <b>PTC</b>	Bond - <b>\$147,100.00</b>		
<input type="checkbox"/> <b>Not.Cred.</b>	<b>Petitioner states:</b>		
<input checked="" type="checkbox"/> <b>Notice of Hrg</b>	<ul style="list-style-type: none"> <li>This Trust was created pursuant to the Order of the Superior Court of San Bernardino County dated 4/27/2007; the Trust Beneficiary suffers from a disability that substantially impairs her ability to provide for her own care and constitutes a substantial handicap;</li> </ul>		
<input checked="" type="checkbox"/> <b>Aff.Mail</b> W/	<ul style="list-style-type: none"> <li>Petitioner was appointed Trustee under the Order dated 4/27/2007;</li> </ul>		
<input type="checkbox"/> <b>Aff.Pub.</b>	<ul style="list-style-type: none"> <li>On 12/12/2008, the San Bernardino County Superior Court entered an order directing administration of the Trust to be in the Superior Court of Fresno County;</li> </ul>		
<input type="checkbox"/> <b>Sp.Ntc.</b>	<ul style="list-style-type: none"> <li>Pursuant to the Order entered on 4/27/2007, the Trustee is entitled to receive an annual fee of <b>0.5%</b> of the assets of the Trust (~\$7,000/year); however, Trustee requests <b>\$1,000.00</b> for this account period.</li> </ul>		
<input type="checkbox"/> <b>Pers.Serv.</b>	~Please see additional page~		
<input type="checkbox"/> <b>Conf. Screen</b>			
<input type="checkbox"/> <b>Letters</b>			
<input type="checkbox"/> <b>Duties/Supp</b>			
<input type="checkbox"/> <b>Objections</b>			
<input type="checkbox"/> <b>Video Receipt</b>			
<input type="checkbox"/> <b>CI Report</b>			
<input checked="" type="checkbox"/> <b>2620</b>			
<input checked="" type="checkbox"/> <b>Order</b>			
<input type="checkbox"/> <b>Aff. Posting</b>			
<input type="checkbox"/> <b>Status Rpt</b>			
<input type="checkbox"/> <b>UCCJEA</b>			
<input type="checkbox"/> <b>Citation</b>			
<input type="checkbox"/> <b>FTB Notice</b>			

**Petitioner prays for an Order:**

1. Approving, allowing and settling the Third Account and Report;
2. Approving all acts and transactions of the Trustee as shown by this account and report;
3. Authorizing the Trustee commissions and Attorney fees;
4. Authorizing reimbursement to attorney of costs advanced.

**NEEDS/PROBLEMS/COMMENTS, continued:****Notes for background:**

- The SNT assets include a 1/3 interest in real property residence in Sanger valued at **\$117,000.00**, the purchase of which was authorized by the Trust terms. *Schedule C, Disbursements* entries consist largely of payments for homeowner's insurance, electricity and utilities, and property taxes. *Supplemental Declaration of Jeffrey Pape* filed on 7/18/2011 provides information concerning the circumstances related to the acquisition of the residence, stating the Trust was established pursuant to a minor's compromise claim in a wrongful death action arising from the death of the mother of Mia Moreno and Mia's two siblings; an annuity in the approximate sum of **\$550,000.00** each was purchased for each of the three minors, the sum of **\$350,000.00** was used to purchase a home for the three minors (each owning a 1/3 interest), and the sum of **\$152,000.00** was used to purchase an annuity made payable to the Mia Moreno SNT to provide monies to pay for all ongoing expenses of the residence during the three minors' minority. SNT assets also include window coverings, furniture and refrigerator for the residence.
- The SNT assets include a Toyota Sienna automobile valued at **\$20,000.00**. Petitioner requested and was granted by this Court at the time of the Second Account the authority to purchase a van for Mia to be used by Mia's grandmother, **GLORIA CUEVAS**, with whom Mia and her siblings live, in order to transport Mia to school, medical appointments, rehabilitation, and related trips.

**Note:** If petition is granted, Court will set status hearing as follows:

- **Friday, August 21, 2015 at 9:00 a.m. in Dept. 303** for filing of the fourth account.

Pursuant Local Rule 7.5, if the documents noted above are filed 10 days prior to the dates listed, the hearings will be taken off calendar and no appearance will be required.

## (1) First and Final Account and Report of Conservator and (2) Petition for Allowance of Compensation to Conservator and her Attorney and (3) Distribution

<b>DOD: 12/17/12</b>		<b>PUBLIC GUARDIAN</b> , Conservator, is Petitioner.	<b>NEEDS/PROBLEMS/COMMENTS:</b>
		Account period: <b>05/25/12 – 12/17/12</b>	
		Accounting - <b>\$1,011,552.14</b>	
		Beginning POH - <b>\$974,151.40</b>	
		Ending POH - <b>\$953,180.23</b>	
<b>Cont. from</b>		Subsequent Account period: <b>12/18/12 – 01/31/13</b>	
<input type="checkbox"/>	<b>Aff.Sub.Wit.</b>	Accounting - <b>\$959,778.77</b>	
<input checked="" type="checkbox"/>	<b>Verified</b>	Beginning POH - <b>\$953,180.23</b>	
<input type="checkbox"/>	<b>Inventory</b>	Ending POH - <b>\$943,277.54</b>	
<input type="checkbox"/>	<b>PTC</b>	Conservator - <b>\$11,033.32</b> (39.79 staff hours @ \$76/hr. and 83.43 Deputy hours @ \$96/hr.)	
<input type="checkbox"/>	<b>Not.Cred.</b>	Attorney - <b>\$2,500.00</b> (per Local Rule)	
<input checked="" type="checkbox"/>	<b>Notice of Hrg</b>	Bond Fee - <b>\$1,189.76</b> (ok)	
<input checked="" type="checkbox"/>	<b>Aff.Mail</b>	Costs - <b>\$1,104.00</b> (for filing fees and certified copies)	
<input type="checkbox"/>	<b>Aff.Pub.</b>	Petitioner requests authority to distribute the remaining cash on hand - \$157,219.67, and all non-cash assets to the Stanley Merk and Patricia Bova, Co-Executors of the Estate.	
<input type="checkbox"/>	<b>Sp.Ntc.</b>	<b>Petitioner prays for an Order:</b>	
<input type="checkbox"/>	<b>Pers.Serv.</b>	1. Approving, allowing and settling the First and Final Account;	
<input type="checkbox"/>	<b>Conf. Screen</b>	2. Authorizing the conservator and attorney fees and commissions;	
<input type="checkbox"/>	<b>Letters</b>	3. Authorizing payment of the bond fee; and	
<input type="checkbox"/>	<b>Duties/Supp</b>	4. Authorizing Petitioner to distribute the remaining cash on hand - \$157,219.67, and all non-cash assets to the Stanley Merk and Patricia Bova, Co-Executors of the Estate.	
<input type="checkbox"/>	<b>Objections</b>		
<input type="checkbox"/>	<b>Video Receipt</b>		
<input type="checkbox"/>	<b>CI Report</b>		
<input checked="" type="checkbox"/>	<b>2620</b>		
<input checked="" type="checkbox"/>	<b>Order</b>		
<input type="checkbox"/>	<b>Aff. Posting</b>		
<input type="checkbox"/>	<b>Status Rpt</b>		
<input type="checkbox"/>	<b>UCCJEA</b>		
<input type="checkbox"/>	<b>Citation</b>		
<input type="checkbox"/>	<b>FTB Notice</b>		

<b>Reviewed by:</b> JF
<b>Reviewed on:</b> 06/11/13
<b>Updates:</b>
<b>Recommendation:</b>
<b>File 2 – Merk</b>

Petition for an Order Approving Extraordinary Commissions for the Public  
Administrator (Prob. C. 7666)

<b>DOD: 11-5-12</b>	<b>PUBLIC ADMINISTRATOR is Petitioner.</b>	<b>NEEDS/PROBLEMS/COMMENTS:</b>
<b>Cont. from 060613</b>		
<b>Aff.Sub.Wit.</b>		
<b>Verified</b>		
<b>Inventory</b>		
<b>PTC</b>		
<b>Not.Cred.</b>		
<b>Notice of Hrg</b>		
<b>Aff.Mail</b>		
<b>Aff.Pub.</b>		
<b>Sp.Ntc.</b>		
<b>Pers.Serv.</b>		
<b>Conf. Screen</b>		
<b>Letters</b>		
<b>Duties/Supp</b>		
<b>Objections</b>		
<b>Video Receipt</b>		
<b>CI Report</b>		
<b>9202</b>		
<b>Order</b>		
<b>Aff. Posting</b>		
<b>Status Rpt</b>		
<b>UCCJEA</b>		
<b>Citation</b>		
<b>FTB Notice</b>		
	Petitioner was appointed Administrator of the Estate pursuant to Probate Code §7660. In the course of administration, Petitioner performed extraordinary services regarding the sale of the decedent's real property located at 1248 W. Alamos in Fresno, and certain personal property.	<b>Note:</b> Terry L. Boblet, a maternal first cousin, has filed a Petition to Determine Heirship. See Page 3B.
	Pursuant to Local Rule 7.18(B)(1), the reasonable fee for the sale of the real property without further justification is \$1,000.00.	<b>Continued from 6-6-13</b>
	Pursuant to Local Rule 7.18(B)(2), the reasonable fee for the sale of the personal property without further justification is 10%, not to exceed \$1,000.00. The personal property was valued at \$10,232.50; therefore, \$1,000.00 is requested.	<b>As of 6-12-13, nothing further has been filed.</b>
	Petitioner also requests \$248.00 for preparation of the first and final fiduciary tax return for the estate.	<b>SEE PAGE 2</b>
	A Request for Special Notice has been filed by Thomas W. Cain; therefore, notice of this petition and hearing is required.	
	<b>Petitioner requests the Court authorize payment to the Fresno County Public Administrator in the amount of \$2,248.00 as reasonable compensation for extraordinary services.</b>	
		<b>Reviewed by:</b> skc
		<b>Reviewed on:</b> 6-12-13
		<b>Updates:</b>
		<b>Recommendation:</b>
		<b>File 3A – Ambrose</b>

## NEEDS/PROBLEMS/COMMENTS:

1. Based on the value of the estate, this estate does not appear to qualify for administration under Probate Code §7660. The Court may require a Petition for Probate to be filed under Probate Code §8000 et seq. for further administration of this estate.

Note: I&A Partial #1 indicates a value of \$150,000.00 for the real property only, and it appears that there was over \$10,000.00 in personal property sold, which has not yet been inventoried. Further, pursuant to a Petition for Heirship that has been filed by Terry Boblet and is set for hearing on 6-17-13, there are additional relatives that were not identified and have not been notified of the administration.

Note: Filing fees for this estate have not yet been paid to the Court, including for the initial petition under §7660, plus \$435.00 for this petition for extraordinary commissions.

2. Probate Code §7661 authorizes the Public Guardian to sell real property for a minimum of 90% of the appraised value by way of Notice of Proposed Action. The property was valued at \$150,000.00 as of the date of death, 11-5-12, but the Notice of Proposed Action filed 3-7-13 indicated a proposed sale price of \$90,000.00, which is only 60% of the appraised value. Need clarification.
3. Petitioner is requesting extraordinary commissions for the sale of personal property based on gross sale proceeds of \$10,232.50; however, no I&A or statement pursuant to Probate Code §7665 has yet been filed indicating the nature and appraised value such personal property. Petitioner originally estimated personal property at approx. \$1,600.00. If this §7660 administration continues (see #1 above), the Court may require filing of the I&A or statement pursuant to §7665 prior to approval of the extraordinary commissions.
4. Petitioner sent notice of this hearing to Thomas W. Cain, attorney for Petitioner Terry L. Boblet. The Court may require notice to all relatives, as identified by Terry Boblet's petition:
  - Terry L. Boblet
  - Vernon R. Ambrose
  - Robert Marc Ambrose
  - Tina M. Ambrose Kinsey
  - Katrina Blair
  - Charles Jones
  - Cheryl D. Ramsden Stockird

Atty

Kruthers, Heather H. (for Public Administrator)

Atty

Cain, Thomas W. (for Terry L. Boblet – Cousin – Petitioner)

Petition to Determine Heirship

DOD:11-5-12		<p><b>TERRY . BOBLET</b>, a maternal first cousin of the decedent, is Petitioner.</p> <p><b>PUBLIC ADMINISTRATOR</b> was appointed Administrator of the Estate pursuant to Probate Code §7660 on 11-27-12.</p> <p><b>Petitioner states</b> Petitioner is a maternal first cousin of the decedent and is entitled to inherit under the laws of intestacy set forth in Probate Code §§ 6402(d) and 240.</p> <p>The Public Administrator's original petition for administration under Probate Code §7660 only identifies one heir, Robert Ambrose; however, he is incorrectly identified as a nephew while in fact he is a first cousin of the decedent.</p> <p>Petitioner states the estate will divide into 6 shares at the first cousin generation (1 maternal and 5 paternal), and provides a family chart showing the heirs and their relationships to the decedent at Exhibit A. Additional exhibits are proofs of heirship including census, death, and birth records.</p> <p><b>Petitioner prays that the Court determine the heirship and entitlement to the estate and for such other relief as the Court may deem proper.</b></p>	<p><b>NEEDS/PROBLEMS/COMMENTS:</b></p> <p>1. Notice of Hearing was not served on all heirs listed. The Court may require service to:</p> <ul style="list-style-type: none"> <li>- Terry L. Boblet</li> <li>- Vernon R. Ambrose</li> <li>- Robert Marc Ambrose</li> <li>- Tina M. Ambrose Kinsey</li> <li>- Katrina Blair</li> <li>- Charles Jones</li> <li>- Cheryl D. Ramsden Stockird</li> <li>- personal representative of the estate of Ronnel Patricia Ambrose, if this person post-deceased the decedent.</li> </ul>	
	Aff.Sub.Wit.			
✓	Verified			
	Inventory			
	PTC			
	Not.Cred.			
✓	Notice of Hrg			
✓	Aff.Mail	W		
	Aff.Pub.			
	Sp.Ntc.			
	Pers.Serv.			
	Conf. Screen			
	Letters			
	Duties/Supp			
	Objections			
	Video Receipt			
	CI Report			
	9202			
✓	Order			
	Aff. Posting			
	Status Rpt			
	UCCJEA			
	Citation			
	FTB Notice			
<div>Reviewed by: skc</div> <div>Reviewed on: 6-12-13</div> <div>Updates: 6-13-13</div> <div>Recommendation:</div> <div>File 3B – Ambrose</div>				

Atty Mortimer, Steven R., of Mortimer &amp; Benitez (for Petitioner Darryl Vannucchi)

Petition for Order Determining Title to Real Property [Prob. C. 17200.0, 850 et seq.]

		<p><b>NEEDS/PROBLEMS/COMMENTS:</b></p> <p><b>CONTINUED TO 7/1/2013</b> Per Attorney request</p>	
Cont. from			
<input type="checkbox"/>	Aff.Sub.Wit.		<input type="checkbox"/>
<input type="checkbox"/>	Verified		<input type="checkbox"/>
<input type="checkbox"/>	Inventory		<input type="checkbox"/>
<input type="checkbox"/>	PTC		<input type="checkbox"/>
<input type="checkbox"/>	Not.Cred.		<input type="checkbox"/>
<input type="checkbox"/>	Notice of Hrg		<input type="checkbox"/>
<input type="checkbox"/>	Aff.Mail		<input type="checkbox"/>
<input type="checkbox"/>	Aff.Pub.		<input type="checkbox"/>
<input type="checkbox"/>	Sp.Ntc.		<input type="checkbox"/>
<input type="checkbox"/>	Pers.Serv.		<input type="checkbox"/>
<input type="checkbox"/>	Conf. Screen		<input type="checkbox"/>
<input type="checkbox"/>	Letters		<input type="checkbox"/>
<input type="checkbox"/>	Duties/Supp		<input type="checkbox"/>
<input type="checkbox"/>	Objections		<input type="checkbox"/>
<input type="checkbox"/>	Video Receipt		<input type="checkbox"/>
<input type="checkbox"/>	CI Report		<input type="checkbox"/>
<input type="checkbox"/>	9202		<input type="checkbox"/>
<input type="checkbox"/>	Order		<input type="checkbox"/>
<input type="checkbox"/>	Aff. Posting		<input type="checkbox"/>
<input type="checkbox"/>	Status Rpt		<input type="checkbox"/>
<input type="checkbox"/>	UCCJEA	<input type="checkbox"/>	
<input type="checkbox"/>	Citation	<input type="checkbox"/>	
<input type="checkbox"/>	FTB Notice	<input type="checkbox"/>	
		Reviewed by: LEG	
		Reviewed on: 6/11/13	
		Updates:	
		Recommendation:	
		File 4 – Vannucchi	

**Petition for Probate of Will and for Letters Testamentary; Authorization to  
Administer Under IAEA (Prob. C. 8002, 10450)**

<b>DOD: 3/15/2013</b>		<b>JOHNNY PATRICK WEST</b> , named alternate Executor without bond, is petitioner.  Full IAEA – o.k.  Will dated: 12/23/1999  Residence: Fresno Publication: Fresno Business Journal  <u><b>Estimated value of the estate:</b></u> Personal property - \$169,000.00 Annual income - \$ 500.00 Real property - \$ 50,000.00 <b>Total - \$219,500.00</b>  <b>Probate Referee: Steven Diebert</b>	<b>NEEDS/PROBLEMS/COMMENTS:</b>  1. Proposed personal representative is a resident of Texas. Probate Code §8571 states notwithstanding a waiver of bond, the court in its discretion may require a nonresident personal representative to give a bond in an amount determined by the court.	
<b>Cont. from</b>				
<input type="checkbox"/>	<b>Aff.Sub.Wit.</b>			S/P
<input checked="" type="checkbox"/>	<b>Verified</b>			
<input type="checkbox"/>	<b>Inventory</b>			
<input type="checkbox"/>	<b>PTC</b>			
<input type="checkbox"/>	<b>Not.Cred.</b>			
<input type="checkbox"/>	<b>Notice of Hrg</b>			
<input checked="" type="checkbox"/>	<b>Aff.Mail</b>			W/
<input checked="" type="checkbox"/>	<b>Aff.Pub.</b>			
<input type="checkbox"/>	<b>Sp.Ntc.</b>			
<input type="checkbox"/>	<b>Pers.Serv.</b>			
<input type="checkbox"/>	<b>Conf. Screen</b>			
<input checked="" type="checkbox"/>	<b>Letters</b>			
<input checked="" type="checkbox"/>	<b>Duties/Supp</b>			
<input type="checkbox"/>	<b>Objections</b>			
<input type="checkbox"/>	<b>Video Receipt</b>			
<input type="checkbox"/>	<b>CI Report</b>			
<input type="checkbox"/>	<b>9202</b>			
<input checked="" type="checkbox"/>	<b>Order</b>			
<input type="checkbox"/>	<b>Aff. Posting</b>			
<input type="checkbox"/>	<b>Status Rpt</b>			
<input type="checkbox"/>	<b>UCCJEA</b>			
<input type="checkbox"/>	<b>Citation</b>			
<input type="checkbox"/>	<b>FTB Notice</b>			
			<b>Reviewed by: KT</b> <b>Reviewed on: 6/11/2013</b> <b>Updates:</b> <b>Recommendation:</b> <b>File 5 – McInturff</b>	



Age: 51		<b>TEMPORARY EXPIRES 06/17/2013</b>		<b>NEEDS/PROBLEMS/COMMENTS:</b>		
		<b>GENERAL HEARING 07/11/2013</b>				
Cont. from		<p><b>KELLY MARIE KISLING GALLAGHER</b>, daughter, is petitioner and requests appointment as Conservator of the person and the estate without bond.</p> <p><b>Petitioner states:</b> Mr. Kisling was in a serious automobile accident on May 25, 2013 and suffered brain damage. He had surgery on May 25 and is in a medically induced coma.</p> <p>Petitioner states bond is not necessary because she is the daughter of the proposed conservatee. She states that he prepared a will and trust for his estate and appointed Myron F. Smith, Attorney, as the executor and trustee, in both cases he waived the requirement of bond for the trustee and executor. Conservator is willing to submit monthly reports from the corporate CPA, Leslie H. Kos Townsend, showing the funds received, salary paid to employees only, costs paid, and tax deposits made. Any funds in excess of those necessary for payment of the monthly expenses and a reasonable living expense for his spouse will be prepared and filed with the Court monthly.</p> <p><b>Estimated Value of the Estate</b> – Not Listed</p> <p><b>Please see additional page</b></p>		<p><b>Court Investigator Advised Rights on 06/06/2013.</b></p> <ol style="list-style-type: none"> <li>1. Need proof of personal service of the Notice of Hearing and a copy of the Temporary Petition on the proposed conservatee.</li> <li>2. Need Duties of Conservator.</li> <li>3. Need video viewing receipt for pursuant to Local Rule 7.15.8(A).</li> <li>4. Petition indicates that Conservator of the Estate is being requested however #5 of the temporary petition is incomplete as to the estimated value of the estate.</li> </ol>		
	Aff.Sub.Wit.					
✓	Verified					
	Inventory					
	PTC					
	Not.Cred.					
✓	Notice of Hrg					
✓	Aff.Mail					
	Aff.Pub.					
	Sp.Ntc.					
	Pers.Serv.					x
✓	Conf. Screen					
	Letters					
	Duties/Supp					x
	Objections					
	Video Receipt	x				
✓	CI Report					
	9202					
	Order					
	Aff. Posting					
	Status Rpt					
	UCCJEA					
	Citation					
	FTB Notice					
				Reviewed by: LV		
				Reviewed on: 06/12/2013		
				Updates:		
				Recommendation:		
				File 6 – Kisling		

**Declaration of Attorney Myron F. Smith in Support of the Petition for Conservatorship filed 06/03/2013** states that he is a close personal friend of the proposed conservatee. He prepared a will and trust for the proposed conservatee in 2008. They have discussed at length the proposed conservatee's wishes regarding his estate and desires regarding who should represent him to provide financial support for his children. The proposed conservatee and Attorney Smith spoke at length regarding the business and made it clear to Attorney Smith that he wanted his daughter, Kelly, to take over the business.

**Court Investigator Jennifer Young's report filed on 06/07/2013.**

## Petition for Transfer

Age: 42 years	
Cont. from	
	Aff.Sub.Wit.
✓	Verified
	Inventory
	PTC
	Not.Cred.
✓	Notice of Hrg
✓	Aff.Mail W/
	Aff.Pub.
	Sp.Ntc.
	Pers.Serv.
	Conf. Screen
	Letters
	Duties/Supp
	Objections
	Video Receipt
	CI Report
	9202
✓	Order
	Aff. Posting
	Status Rpt
	UCCJEA
	Citation
	FTB Notice

PATRICIA PADILLA, mother, was appointed conservator on 7/10/1992.

Court Investigator **JULIE NEGRETE** filed a Petition for Transfer on 5/8/2013 requesting this proceeding be transferred to Tulare County because the conservatee has resided there since 2006, and it is presumed pursuant to Probate Code §2215 that transfer of the conservatorship case to the county of residence is in the best interests of the conservatee.

Court Investigator further recommends that the fees and costs related to this transfer be waived.

**NEEDS/PROBLEMS/COMMENTS:**

If the petition is granted a status hearing will be set on **August 16, 2013 at 9:00 a.m. in Dept. 303** for the confirmation of the receipt for transfer.

Reviewed by: KT
Reviewed on: 6/11/13
Updates:
Recommendation:
File 7 – Mendoza

Petition for Termination of Guardianship

Age: 15 years		ALBERT GOMEZ, maternal grandfather, is petitioner.	<b>NEEDS/PROBLEMS/COMMENTS:</b>
		ALBERT GOMEZ was appointed as Successor Guardian on 10/11/2012 after the former Rebekah Ayers, requested the guardianship be terminated stating the minor had behavioral issues that they were causing problems for her family.	1. Need Notice of Hearing.  2. Need proof of service of the Notice of Hearing on: a. Sharon Gomez (mother) b. Felicia Gomez (minor)
Cont. from		Father: UNKNOWN	Mother: SHARON C. GOMEZ
	Aff.Sub.Wit.	Paternal grandparents: Unknown Maternal grandmother: Sharon Gomez – deceased.	
✓	Verified		
	Inventory	Petitioner states the minor has displayed mental problems which have caused serious problems with the family which had to involve the police. Petitioner states he would like the minor put in a place where she could get some help, like a group home.	
	PTC		
	Not.Cred.	Court Investigator Julie Negrete's Report filed on 6/4/2012.	
	Notice of Hrg		
	Aff.Mail	Reviewed by: KT	Reviewed on: 6/12/13
	Aff.Pub.		
	Sp.Ntc.	Updates:	Recommendation:
	Pers.Serv.		
	Conf. Screen	File 8 – Gomez	
	Letters		
	Duties/Supp		
	Objections		
	Video Receipt		
✓	CI Report		
	9202		
✓	Order		
	Aff. Posting		
	Status Rpt		
	UCCJEA		
	Citation		
	FTB Notice		

Status Hearing Re: Filing of the First Account or Petition for Final Distribution

Age:			NEEDS/PROBLEMS/COMMENTS:  <p style="text-align: center;"><b><u>OFF CALENDAR</u></b>  <b>Order on Final Distribution on</b>  <b>Waiver of Account filed</b>  <b>04/10/13</b></p>	
DOD:				
Cont. from				
	Aff.Sub.Wit.			
	Verified			
	Inventory			
	PTC			
	Not.Cred.			
	Notice of Hrg			
	Aff.Mail			
	Aff.Pub.			
	Sp.Ntc.			
	Pers.Serv.			
	Conf. Screen			
	Letters			
	Duties/Supp			
	Objections			
	Video Receipt			
	CI Report			
	9202			
	Order			
	Aff. Posting			
	Status Rpt			
	UCCJEA			
	Citation			
	FTB Notice			
Reviewed by: JF Reviewed on: 06/11/13 Updates: Recommendation: File 9 – Turner				

10 Rick Gerald Smith III (GUARD/P)  
 Atty Smith, Marlene (pro per – paternal grandmother/Petitioner)  
 Atty Smith, Rick (pro per – paternal grandfather/Petitioner)

Case No. 13CEPR00311

Petition for Appointment of Guardian of the Person (Prob. C. 1510)

Age: 10		<b>TEMPORARY EXPIRES 06/17/13</b>		<b>NEEDS/PROBLEMS/COMMENTS:</b>	
		RICK SMITH and MARLENE SMITH, paternal grandparents, are Petitioners.		1. Need Notice of Hearing.	
		Father: RICK G. SMITH, JR. – Consent & Waiver of Notice filed 04/16/13		2. Need proof of service by mail at least 15 days before the hearing of Notice of Hearing with a copy of the Petition for Appointment of Guardian of the Person <u>or</u> Consent & Waiver of Notice <u>or</u> Declaration of Due Diligence for:	
Cont. from		Mother: CLAUDIA E. RIVERA SMITH – Consent & Waiver of Notice filed 04/25/13		- Maternal grandfather	
	Aff.Sub.Wit.				
✓	Verified				
	Inventory				
	PTC				
	Not.Cred.				
	Notice of Hrg	x			
	Aff.Mail	x			
	Aff.Pub.				
	Sp.Ntc.				
	Pers.Serv.	n/a			
✓	Conf. Screen				
✓	Letters				
✓	Duties/Supp				
	Objections				
	Video Receipt				
✓	CI Report				
	9202				
✓	Order				
	Aff. Posting			Reviewed by: JF	
	Status Rpt			Reviewed on: 06/11/13	
✓	UCCJEA			Updates:	
	Citation			Recommendation:	
	FTB Notice			File 10 – Smith	

Petition for Appointment of Guardian of the Person (Prob. C. 1510)

Sonny, 11		<p align="center"><b><u>NO TEMPORARY REQUESTED</u></b></p> <p><b>DORA M. GOULD</b>, maternal grandmother is Petitioner.</p> <p>Father: <b>CURTIS J. BAUDOUR</b> – <i>Personally served on 06/08/13</i></p> <p>Mother: <b>JACQUI D. DIXON</b> – <i>Declaration of Due Diligence filed 06/11/13</i></p> <p>Paternal grandfather: GARY BAUDOUR - <i>deceased</i></p> <p>Paternal grandmother: KIM CLARK – <i>Served by mail on 05/28/13</i></p> <p>Maternal grandfather: ART DIXON – <i>Served by mail on 05/28/13</i></p> <p><b>Petitioner alleges</b> that she has provided a safe and loving home for the children since birth. Neither parent is able to care for the children. There is a long history of domestic violence between the children and both parents abuse alcohol. CPS has encouraged Petitioner to seek guardianship of the children.</p> <p><b>Court Investigator Charlotte Bien filed a report on 06/06/13.</b></p>	<p><b>NEEDS/PROBLEMS/COMMENTS:</b></p> <p>1. Declaration of Due Diligence filed 06/11/13 states that the mother's whereabouts are unknown and she is evading service. If diligence is not found, need proof of personal service at least 15 days before the hearing of Notice of Hearing with a copy of the <i>Petition for Appointment of Guardian of the Person</i> or Consent &amp; Waiver of Notice for:</p> <ul style="list-style-type: none"> <li>- Jacqui D. Dixon (mother)</li> </ul>
Kaeli, 7			
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✓	CI Report		
	9202		
✓	Order		
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✓	UCCJEA		
	Citation		
	FTB Notice		
		<p><b>Reviewed by:</b> JF</p> <p><b>Reviewed on:</b> 06/12/13</p> <p><b>Updates:</b></p> <p><b>Recommendation:</b></p> <p><b>File 11 – Baudour</b></p>	

Age: 2		<b>TEMPORARY EXPIRES 06/17/13</b>		<b>NEEDS/PROBLEMS/COMMENTS:</b>	
		<b>SHELLY A. MUSGRAVE</b> , paternal grandmother, is Petitioner.		2. Need proof of personal service at least 15 days before the hearing of <i>Notice of Hearing</i> with a copy of the <i>Petition for Appointment of Guardian of the Person</i> <u>or</u> Consent & Waiver of Notice <u>or</u> Declaration of Due Diligence for: - Jeremy B. Musgrave (father) - Whittnie Carrillo (mother) <b>Note:</b> Both parents signed the nomination of guardian, but they did not sign the Consent & Waiver of Notice, therefore Personal service of Notice is required to both parents.	
		Father: <b>JEREMY B. MUSGRAVE</b>			
		Mother: <b>WHITTIE F. CARRILLO</b>			
Cont. from		Paternal grandfather: PAUL M. MUSGRAVE – <i>Consent &amp; Waiver of Notice filed 04/17/13</i>			
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<input checked="" type="checkbox"/>	Notice of Hrg	Maternal grandfather: JOE P. CARRILLO – <i>Served by mail on 05/03/13</i>			
<input checked="" type="checkbox"/>	Aff.Mail	Maternal grandmother: TAMMY L. CARMICHAEL – <i>Served by mail on 05/03/13</i>			
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<input checked="" type="checkbox"/>	Conf. Screen	<b>Petitioner alleges</b> that both parents are homeless and abuse drugs. Neither is able to care for themselves let alone care for Jaiden. Neither parent has shown an interest in caring for Jaiden.			
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<input checked="" type="checkbox"/>	CI Report	<b>Court Investigator Jennifer Young filed a report on 06/10/13.</b>			
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<input type="checkbox"/>	Citation				
<input type="checkbox"/>	FTB Notice				
				Reviewed by: JF	
				Reviewed on: 06/12/13	
				Updates:	
				Recommendation:	
				File 12 – Musgrave	



Pro Per Murillo, Carlos (Pro Per Petitioner, father)  
 Pro Per Murillo, Adelita (Pro Per Petitioner, mother)

**Petition for Appointment of Probate Conservator of the Person  
 (Prob. C. 1820, 1821, 2680-2682)**

<b>Age: 18 years</b>	<b>CARLOS MURILLO, SR. and ADELITA MURILLO,</b> parents, are Petitioners and request appointment as Co-Conservators of the Person with medical consent powers.  <b>Capacity Declaration of Lydia Sanchez, M.D.,</b> <b>filed 5/8/2013</b> supports request for medical consent powers.  <b>Voting Rights Affected.</b>  <b>Petitioners state</b> the proposed Conservatee is diagnosed with Down syndrome with mild to moderate mental retardation, he requires assistance with most tasks, and requires constant supervision as he will flee without warning. Petitioners state the proposed Conservatee has the cognitive ability of about a five year old child and is not able to recognize what is in his best interest or meet his own needs. Petitioners state proposed Conservatee is a client of CVRC, he attends Fresno State's ATP program, participates in sports and in the Special Olympics, and attends a gym.  <b>Court Investigator Julie Negrete's Report was filed</b> <b>on 6/10/2013.</b>	<b>NEEDS/PROBLEMS/COMMENTS:</b>  Court Investigator Advised Rights on 6/5/2013.  Voting Rights Affected – Need Minute Order.				
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<b>Reviewed by: LEG</b>						
<b>Reviewed on: 6/11/13</b>						
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<b>Recommendation:</b>						
<b>File 13 – Murillo</b>						

<b>DOD: 12/19/2012</b>  <b>Cont. from</b> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr><td style="width: 5%;"></td><td style="width: 85%;"><b>Aff.Sub.Wit.</b></td><td style="width: 10%;"></td></tr> <tr><td style="text-align: center;">✓</td><td><b>Verified</b></td><td></td></tr> <tr><td></td><td><b>Inventory</b></td><td></td></tr> <tr><td></td><td><b>PTC</b></td><td></td></tr> <tr><td></td><td><b>Not.Cred.</b></td><td></td></tr> <tr><td></td><td><b>Notice of Hrg</b></td><td style="text-align: center;">x</td></tr> <tr><td></td><td><b>Aff.Mail</b></td><td style="text-align: center;">x</td></tr> <tr><td></td><td><b>Aff.Pub.</b></td><td></td></tr> <tr><td></td><td><b>Sp.Ntc.</b></td><td></td></tr> <tr><td></td><td><b>Pers.Serv.</b></td><td></td></tr> <tr><td></td><td><b>Conf. Screen</b></td><td></td></tr> <tr><td></td><td><b>Letters</b></td><td></td></tr> <tr><td></td><td><b>Duties/Supp</b></td><td></td></tr> <tr><td></td><td><b>Objections</b></td><td></td></tr> <tr><td></td><td><b>Video Receipt</b></td><td></td></tr> <tr><td></td><td><b>CI Report</b></td><td></td></tr> <tr><td></td><td><b>9202</b></td><td></td></tr> <tr><td style="text-align: center;">✓</td><td><b>Order</b></td><td></td></tr> <tr><td></td><td><b>Aff. Posting</b></td><td></td></tr> <tr><td></td><td><b>Status Rpt</b></td><td></td></tr> <tr><td></td><td><b>UCCJEA</b></td><td></td></tr> <tr><td></td><td><b>Citation</b></td><td></td></tr> <tr><td></td><td><b>FTB Notice</b></td><td></td></tr> </table>		<b>Aff.Sub.Wit.</b>		✓	<b>Verified</b>			<b>Inventory</b>			<b>PTC</b>			<b>Not.Cred.</b>			<b>Notice of Hrg</b>	x		<b>Aff.Mail</b>	x		<b>Aff.Pub.</b>			<b>Sp.Ntc.</b>			<b>Pers.Serv.</b>			<b>Conf. Screen</b>			<b>Letters</b>			<b>Duties/Supp</b>			<b>Objections</b>			<b>Video Receipt</b>			<b>CI Report</b>			<b>9202</b>		✓	<b>Order</b>			<b>Aff. Posting</b>			<b>Status Rpt</b>			<b>UCCJEA</b>			<b>Citation</b>			<b>FTB Notice</b>		<b>WESLEY PEARSON</b> , surviving spouse, is petitioner.  No other proceedings  Decedent died intestate	<b>NEEDS/PROBLEMS/COMMENTS:</b>  1. Petition was filed using a fee waiver. A filing fee of \$435 must be paid to the Court prior to signing an order to pass the property.  2. #1 of the petition does not list the petitioner's name.  3. #5a(1) was not answered regarding whether the decedent was survived by children. If the answer to #5a(1) is no children then #6(a) or 6(b) must be answered.  4. Need Attachment #7 setting forth the facts upon which the petitioner bases the allegation that the property should be passed or be confirmed to the petitioner.  5. Attachment #7a of the petition was not provided regarding the description of the property.  6. Need Notice of Hearing and proof of service on all persons entitled. Petition is incomplete therefore it is unclear as to who is entitled.  7. Order is incomplete. Need new Order.
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		<b>File 14 – Pearson</b>																																																																					

1A Ben H. Smith (CONS/PE)  
 Atty Jaech, Jeffrey A. (for Conservatee)  
 Atty Amador, Catherine A. (for Michael H. Smith, Sr. – son)  
 Atty Kruthers, Heather H. (for Public Guardian – Conservator)

Case No. 11CEPR00782

Status Hearing Re: Filing of the Inventory and Appraisal

Age: 85	<p><b>PUBLIC GUARDIAN</b> was appointed Conservator of the Person and Estate on 01/13/13.</p> <p><b>Inventory &amp; Appraisal, Partial No. 1 filed 05/14/13 - \$0.00</b></p> <p><b>Status Conference Statement</b> filed 05/31/13 by Michael H. Smith, Sr. states: The parties are currently awaiting the completion of the Inventory &amp; Appraisal by the Public Guardian. Declarant states that conservatee's grandson, Michael H. Smith, Jr. ("Butch") has failed to provide certain bank account records required by the Public Guardian, despite his previous assurances to the Court that all such records would be provided promptly. Months have passed and these records are needed to determine the use of certain funds belonging to conservatee which were distributed to Butch for the benefit of the conservatee. The Conservator's inability to obtain these records is preventing them from completing the Inventory &amp; Appraisal.</p> <p>Once the Inventory &amp; Appraisal is complete, the parties need to collaborate to divide the community estate belonging to conservatee and his deceased wife, so that her portion of the estate can be distributed according to her estate plan. This work is also being delayed due to the lack of cooperation demonstrated by Butch.</p>	<p><b>NEEDS/PROBLEMS/COMMENTS:</b></p> <p><b>THIS MATTER IS TO BE HEARD AT 10:30 AM</b></p> <p><b><u>CONTINUED FROM 06/07/13</u></b></p> <p>As of 06/12/13, nothing further has been filed.</p>
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<p><b>Reviewed by:</b> JF</p> <p><b>Reviewed on:</b> 06/12/13</p> <p><b>Updates:</b></p> <p><b>Recommendation:</b></p> <p><b>File 1A - Smith</b></p>		

1A

Atty Amador, Catherine A. (for Michael H. Smith, Sr. – son/Petitioner)

Atty Krbechek, Randolph (for Michael Smith, Jr. – Objector)

Atty Motsenbocker, Gary (for Public Guardian – Conservator)

Atty Jaech, Jeffrey (for Ben H. Smith – Conservatee)

## Motion to Terminate Authority of Agent for Health Care

Age: 85		<b>MICHAEL H. SMITH, SR.,</b> son is Petitioner.  <b>Petitioner states:</b> 1. The Public Guardian was appointed as Conservator of the Person and Estate, however, the conservatee's grandson, Michael H. Smith, Jr. ("Butch"), retains the authority to make all medical decisions for the conservatee pursuant to an advance health care directive signed by the conservatee on 06/17/11. 2. The conservatee has been adjudged to lack the capacity to give informed consent to medical treatment. 3. Petitioner seeks the termination of Butch's authority as agent for health care under the advance health care directive on the ground that Butch has failed to perform and is unfit to perform the duties required of him under the advance health care directive and is acting in a manner that is clearly contrary to the conservatee's best interest. 4. Under the direction of the Public Guardian, health care workers are present in the conservatee's home from 11am to 7pm daily. Butch and his mother, Robin Kent, provide care for the balance of each day/night. 5. Butch clarified his authority to make all medical decisions for conservatee via a motion brought by conservatee, through his attorney, to clarify the Court's previous order appointing the Public Guardian as Conservator of the person and estate. At the hearing on 03/11/13, the Court specifically instructed Butch that he was to take sole responsibility for all aspects of conservatee's health care, including ensuring that he was scheduled for and transported to all necessary doctor visits and that medications were administered as directed by his physicians. Butch was also instructed to coordinate and cooperate with the staff caring for the conservatee. Continued on Page 2	<b>NEEDS/PROBLEMS/COMMENTS:</b>  <b>THIS MATTER IS TO BE HEARD AT 10:30 AM</b>  <u><b>CONTINUED FROM 06/07/13</b></u> <b>Minute Order from 06/07/13 states:</b> Also present in the courtroom is Youa Her. The Court directs that Ben Smith be seen by Dr. Sheriffs. The Court further directs that Michael Smith, Jr. and a representative of the Public Guardian be present during the visit with Dr. Sheriffs. The Court orders that Dr. Sheriffs be informed of what has been going on with Ben Smith during the day and evening. The Court orders counsel to submit a status report regarding what occurred with Dr. Sheriffs. Parties agree to participate in mediation on 06/17/13 at 2:00 p.m. Mediation to include Michael Smith, Jr., Michael Smith, Sr., and the Public Guardian. Mr. Fischer is directed to keep the Court apprised of the status of mediation.  <b>As of 06/12/03, nothing further has been filed.</b>  <b>Note:</b> The parties are to participate in Mediation at 2:00 pm on 06/17/13.
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			<b>Reviewed by:</b> JF <b>Reviewed on:</b> 06/12/13 <b>Updates:</b> <b>Recommendation:</b> <b>File 1B – Smith</b>

6. While the Probate Code gives an agent selected under an advance health care directive priority over others, including a conservator, to make health care decisions, it is also possible to terminate such agent's authority when necessary. Probate Code § 4766(d) provides that a petition may be filed seeking an order declaring that the authority of an agent is terminated where the Court determines both of the following:
  - (1) The agent...has violated, has failed to perform, or is unfit to perform, the duty under an advance health care directive to act consistent with the patient's desires or, where the patient's desires are unknown or unclear, is acting (by action or inaction) in a manner which is clearly contrary to the patient's best interest.
  - (2) At the time of the determination by the court, the patient lacks capacity to execute or revoke an Advance Health Care Directive...
7. Starting immediately after the hearing on 03/11/13, Butch initiated a program whereby he kept personal control of all of the conservatee's medications, despite the fact that he is frequently not at the conservatee's home between the hours of 11:00am and 7:00pm and the fact that the conservatee requires the administration of medication during these hours. Butch refuses to leave any of conservatee's medications in the house or allow the staff hired to care for the conservatee to administer any medication during their shift. Specifically, the conservatee is scheduled to take medication in the morning, at 2:00pm at 7:00pm and at bedtime. Butch frequently leaves the home before the conservatee wakes up in the morning and often does not return during the day to administer the medications for the morning or the afternoon. It is unclear whether Butch is administering the 7:00pm or evening dose as directed by the conservatee's physician. Butch has also been discovered to have administered medication to conservatee that was prescribed to Butch himself.
8. Butch also refuses to keep the staff or the conservator informed about the conservatee's medical appointments. Instead he will simply show up and take the conservatee out of the house with no warning and no information about where he is going. He has also provided incorrect information to staff and the conservator about prescriptions and dosing of medications. He appears to confuse which of conservatee's doctors provide the various parts of conservatee's care and confuses appointments on occasion. It has been necessary for the Public Guardian to contact conservatee's doctors directly to confirm dates and times of appointments to ensure that the staff has the conservatee ready to go when it is time for Butch to take him to a doctor's appointment and to maintain some information about the directions conservatee's various doctors have given for his care, including medication dosing.
9. Butch has unilaterally decided to stop giving conservatee some of the medications prescribed for him, especially Risperidone, during the day. This medication is intended to treat conservatee's anxiety and is especially important in controlling his dementia symptoms later in the day. Without it, conservatee becomes increasingly agitated and combative in the afternoons. It is often difficult to control him and the staff is forced to staff his care with men only. In contrast, conservatee's anxiety and conduct were fairly well controlled when he was taking Risperidone throughout the day as prescribed by his physician.
10. Conservatee's overall health and well-being appear to have deteriorated significantly since Butch was given control over his medical care. Prior to Butch's control, conservatee's medications were consistently given as prescribed during the staff's working hours, his sleep was better regulated, and his dementia and anxiety symptoms were better controlled. Now his symptoms are poorly controlled and staff is concerned that his heart medication is also not being administered as directed.

Continued on Page 3

11. Petitioner believes that Butch has failed to perform or is unfit to perform his duties under the advance health care directive, and that Butch is acting in a manner that is clearly contrary to the conservatee's best interests.
12. This Court has previously determined that the conservatee has dementia and lacks capacity to give informed consent for any form of medical procedure or health care issue. Petitioner submits that, therefore, conservatee lacks the capacity to execute or revoke an advance health care directive or to disqualify a surrogate.

**Petitioner prays for an Order:**

1. Terminating Butch's authority to make medical decisions for conservatee pursuant to the advance health care directive signed by conservatee on 06/17/11;
2. Confirming its earlier finding that the conservatee lacks capacity to give informed medical consent for any purpose;
3. Appointing the Public Guardian, the Conservator of the Person and Estate, as the party with authority to make all medical decisions for conservatee, including, but not limited to, scheduling and attending medical appointments, reporting symptoms to conservatee's physicians, and directing the administration of medications per the conservatee's physician's orders; and
4. Such other and further relief as the Court deems necessary and proper.

**Declaration of Deputy Public Guardian Youa Her in Support of Petition to Terminate Authority of Agent for Health Care in Favor of Conservator filed 05/24/13** states: during the first weeks of the conservatorship, the Public Guardian supervised and attended medical appointments, the administration of medication, and all necessary follow-up care pursuant to doctors' instructions. Throughout this time period, there were regular and sometimes serious problems with Butch interfering with the provisions of necessary medical care for the conservatee. Butch and Robin provided inaccurate information to conservatee's various physicians, were frequently confused about appointments, medication dosages and timing of dosages. On at least one occasion, Butch administered medication not prescribed for the conservatee. Declarant further states that she is informed that Butch refuses to administer certain medications prescribed for the conservatee to address is mounting anxiety and agitation and that the conservatee's medical condition is deteriorating as a result. Shortly after the Public Guardian was appointed conservator, the conservatee required a procedure to clear his arteries. There were numerous doctor's involved and it was clear to the declarant that Butch did not understand the role that each doctor played or care each would provide. He confused the doctors, their roles, and confused appointments. It became necessary for the declarant to confirm all appointments, and to make arrangements for the care staff (Anjaleoni Enterprises) to take the conservatee to those appointments to ensure that everything was done as it should be.

Declarant further states that she is aware that Butch and Robin made very different reports to Anjaleoni staff regarding the conservatee's sleep and well-being at night. While they reported to the staff that the conservatee generally did well at night, they reported to Dr. Sheriffs in mid-February that the conservatee got up frequently during the night. Declarant is also aware of an incident in which Butch administered an inhaler to the conservatee that was not prescribed for the conservatee. Staff followed up and obtained an appropriate prescription for the conservatee to have his own inhaler. Apparently, it did not occur to Butch that he should not give the conservatee medication which was prescribed for another person or that he should address the issue with the conservatee's physician.

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On 03/11/13m Butch clarified his authority to make medical decisions for the conservatee. At the hearing, the Court made clear that Butch was henceforward to take sole responsibility for all aspects of conservatee's health care, including ensuring that he was scheduled for and transported to all necessary doctor visits and that his medications were given as directed by his physicians. Butch was also instructed to coordinate and cooperate with the staff that assists the conservatee from 11am – 7pm.

Declarant states that on 03/02/13, Butch took conservatee's medications from the house and informed Susan from Anjaleoni that he intended to maintain custody of all the medications himself and manage administration of said medications. Conservatee requires medication in the morning, at 2:00 pm, at 7:00 pm and at bedtime. The Anjaleoni caregivers had previously been giving the daytime doses with the occasional exception of the morning dose. If the conservatee woke up before 11 am, Robin or Butch would give the morning dose prior to leaving the house. Declarant states that she tried calling Butch about the issue, but had to leave a voice message. Declarant indicated in her message that Butch could not take the conservatee's medications out of the conservatee's home, despite having the advance health care directive. She further instructed him that he could not prevent the Anjaleoni staff from giving the conservatee his prescribed medications during the day unless he made arrangements to do so himself. She requested that the medications be returned to the house immediately; however, Butch continues to maintain custody of the medications and insists on administering them himself. Conservatee is often not awake when Butch leaves the house in the morning and Butch is often late or does not appear for the mid-day dose. It is unclear whether the conservatee is given the early evening or bedtime dose.

Declarant states that on 03/25/13, Butch informed Susan from Anjaleoni that the conservatee no longer needs to take Risperidone, which was prescribed by the conservatee's primary care physician, Dr. Sheriffs for agitation/anxiety. At the same time, she was informed that the conservatee regularly displays increased anxiety and agitation during the daytime hours. Butch appears to discount conservatee's increasing anxiety and the incidents of violence and does not seem to understand that conservatee's physician prescribed the Risperidone in order to control the conservatee's symptoms and that failure to administer the medication as prescribed is contrary to the conservatee's best interests. Declarant states that the conservatee has attempted to attack female care givers and has had to be restrained. Declarant is informed that the conservatee's actions on both occasions is reminiscent of violence he previously displayed on his now deceased wife and that he appears to have confused the caregivers with his memory of his wife. Declarant further states that she is aware that the conservatee threatened Michael Smith's (petitioner's) wife in a similar fashion on a recent dinner outing. All of these incidents have occurred since the conservatee's Risperidone dosage was reduced and two of them have occurred since Butch determined to stop giving the medication altogether. The conservatee has become much less cooperative with the caregivers since the Risperidone has been stopped.

Declarant states that Butch is now refusing to inform the Anjaleoni staff when the conservatee has doctor's appointments and instead simply comes and picks up the conservatee and refuses to state where he is taking the conservatee and why. This makes it difficult for the caregivers to ensure that the conservatee is ready to go when an appointment is scheduled. Declarant has had to contact the conservatee's doctor's herself and provide appointment information to the Anjaleoni staff.

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Declarant further states that Butch and Robin have moved into the conservatee's home. It is Declarant's opinion that the conservatee's overall well-being has deteriorated since Butch became solely responsible for his medical care. Butch is unwilling or unable to manage conservatee's care properly, either because he does not have a complete grasp of the nature of the care conservatee requires or because he fails or refuses to take proper and full responsibility for all aspects of necessary care. In either case, the conservatee's health is suffering because of it. Declarant is concerned that it may become necessary to remove the conservatee from his home and place him in an assisted living facility. There are concerns about exposing female caregivers to potential violence against them by the conservatee. The conservatee has also been unwilling to cooperate with male caregivers. It is possible that, if this situation continues to deteriorate, it will no longer be possible to care for the conservatee safely in his home.

**Declaration of Sundari Susan Kendakur in Support of Petition to Terminate Authority of Agent for Health Care filed 05/24/13** states: She is the Executive Director & Administrator of Anjaleoni Enterprises, which has been contracted to provide in home care for the conservatee from 11:00 am – 7:00pm. Conservatee's grandson Butch and Butch's mother Robin, provide the care to the conservatee for the balance of each day. Anjaleoni staff attempts to coordinate daily activities and the administration of medication with Butch and Robin and the staff relies on reports from them to understand how the conservatee is doing during the hours when staff is not in the home. Initially, they took direction regarding medical care for the conservatee from the Public Guardian, because the conservatee lacks capacity and her staff took conservatee to his medical appointments, usually with Butch and sometimes Robin in attendance as well. Anjaleoni staff handled the administration of medication all necessary follow-up care during the hours they were with the conservatee pursuant to doctors' instructions. During this time, there were regular and sometimes serious concerns with Butch confusing the directions or medications for conservatee by his physicians, confusing which doctors provided what type of care and why and even interfering with the provisions of necessary medical care for the conservatee. On the very first day they began providing care, they discovered that Butch was administering an inhaler to the conservatee that had been prescribed for Butch. They contacted conservatee's primary care physician and obtained a prescription for the conservatee. They have attempted to ensure that the conservatee is only given medications that are specifically prescribed for him, according to the dosing instructions given by the physician for that medication and have attempted to ensure that all medications are given as prescribed.

On 01/29/13, Butch informed Anjaleoni that conservatee's physician changed his albuterol (inhaler) dosing. They asked Butch which doctor had given that order for documentation purposes and he stated it was Dr. Fong. Dr. Fong is a surgeon who performed a cardiac procedure on conservatee in mid-February and was not involved in prescribing the albuterol. Declarant contacted the Public Guardian to confirm the change since she had attended the appointment. It turned out Dr. Fong had given specific instructions for another medication, but nothing was discussed about the albuterol.

On 02/08/13, Butch informed Anjaleoni that conservatee had a pre-op appointment the following Monday with Dr. Sheriffs, his primary care physician. This didn't make sense because Dr. Sheriffs was not involved in the upcoming surgery. Declarant contacted the Public Guardian and confirmed that the pre-op appointment was with Dr. Boran, conservatee's cardiologist, not Dr. Sheriffs as Butch had stated. Declarant confirmed that conservatee had a separate appointment scheduled with Dr. Sheriffs the same day that had nothing to do with the surgery. Had they relied on the information provided by Butch, conservatee would have missed his scheduled appointment with Dr. Sheriffs that day and would have gone to the wrong office potentially missing his pre-op appointment with Dr. Boran and possibly delaying an urgent surgical procedure.

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On 02/11/13, Butch relayed different facts to Dr. Sheriffs than he had been relaying to the care staff who he had previously told that the conservatee was sleeping well at night. At the appointment with Dr. Sheriffs he reported that conservatee was up as many as 7 times during the night. Over the course of this time, Declarant states that she and the Anjaleoni staff have been unable to rely on Butch or Robin to provide accurate information on conservatee's condition or activities while he is under their care, making it much more difficult for them to provide appropriate care for him during the hours they are caring for conservatee.

On 03/06/11, Anjaleoni staff member Ruby Watson accompanied conservatee to an appointment with Dr. Sheriffs. Butch and Robin were also present. Butch described symptoms to Dr. Sheriffs and based on Butch's information Dr. Sheriffs reduced conservatee's regular dose of Risperidone from two tablets to one. Later that evening, Butch contacted Declarant to inquire as to why the conservatee was only taking one Risperidone now instead of two. He had forgotten about Dr. Sheriffs reducing the dosage based on Butch's account of conservatee's symptoms. At a subsequent visit with Dr. Sheriffs it was determined that a second tablet of Risperidone could be given if conservatee was agitated or anxious and the first tablet did not allay his symptoms.

On 03/11/11, Butch obtained authority to make medical decisions for the conservatee and was specifically instructed by the Court that he was to take sole responsibility for all aspects of conservatee's health care, including ensuring that he attended all scheduled appointments and medications were administered as prescribed. Butch was also told to coordinate and cooperate with the Anjaleoni staff.

On 03/20/13, Butch took possession of all of conservatee's medications and made them unavailable to the Anjaleoni staff thereby restricting the staff from being able to give conservatee his medications at the prescribed times. Declarant contacted Butch about this situation and he stated that the medications were at the house. However, the staff searched the house and was unable to locate the medication. In a second call, Butch informed Declarant that he was handling the medications and there was no medication prescribed for the daytime. Declarant inquired about the afternoon dose of Risperidone and Butch stated that there was no need to take medication in the afternoon. Declarant has sought the assistance of the Public Guardian in this matter, but Butch continues to maintain possession of the conservatee's medications.

On 03/25/13, Butch informed Declarant that conservatee no longer needed to take the Risperidone. Although it was prescribed by Dr. Sheriffs. It is Declarant's understanding that Butch continues to give the conservatee Risperidone at night, but maintains that daytime doses are unnecessary. The conservatee exhibits "sundowners" symptoms in which his agitation and anxiety become more prevalent toward the end of the afternoon. Using Risperidone during the day when needed was keeping these symptoms relatively well controlled. However, since Butch decided to stop the daytime dosing, conservatee exhibits anxiety and agitation on a daily basis, especially in the late afternoon and early evening. He also exhibits fairly serious episodes of combativeness and bouts of violence toward staff on a regular basis and on occasion toward Robin. These symptoms were not present when Anjaleoni initially started caring for conservatee, during the time when his medication was administered routinely as prescribed.

Further, Butch currently keeps all medication information to him, including information about appointments and their outcomes. Butch will come to take the conservatee to an appointment without any notice and it is difficult to ensure that he is ready to leave the house.

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Declarant is also concerned that conservatee's sleep schedule and his medication schedule have been skewed to his detriment, especially given his susceptibility to Sundowner symptoms. Declarant is informed that conservatee often stays up very late and the time he wakes up is erratic. There are days when staff arrives to find the conservatee up and seated in his favorite chair having already eaten his breakfast and taken his morning medication. Some days they arrive to find conservatee still in bed and sleeping. Other days he is in bed but awake and no one has helped him out of bed. He is usually still in his pajamas when staff arrives. Typically, morning medication would be given much earlier than 11am, but this is not possible due to conservatee's sleep schedule. Declarant is concerned that he is not receiving proper dosing of medications associated with his cardiac condition based at least in part on his skewed sleep schedule.

Conservatee's son Mike and his wife Lisa visit with conservatee twice a week, often taking him out for a meal. Staff has observed a pattern of behavior on days when the visits are scheduled where Butch has conversations with the conservatee. Following those conversations, conservatee will exhibit agitation about the impending visit with Mike and Lisa. It has become necessary for staff to request that Butch leave the house before each visit to allow them to calm the conservatee down and get him ready for the visit. At the conclusion of most of these visits, it is clear that conservatee enjoyed himself during the visit and usually asks whether Mike and Lisa will come back to visit again soon.

Declarant states that it is her opinion that conservatee's overall well-being has deteriorated since Butch became solely responsible for his medical care. Butch is unable or unwilling to manage that care properly, either because he does not have a complete grasp of the nature of the care conservatee requires, because he fails or refuses to take proper and full responsibility for all aspects of necessary care, or because he simply disagrees with conservatee's doctors and refuses to follow their medical advice and/or direction. Whatever the case, conservatee's health is suffering as a result. Additionally, Declarant and her staff are unable to provide full and appropriate care to conservatee because Butch refuses to keep them informed of his physician's orders and refuses access to provide care appropriately.

Declarant states that she has observed and it has been reported to her that Butch and Robin are living in the conservatee's home and have their personal possessions in the home. Robin stays at the home every night and Butch stays there most nights. Additionally, Robin's husband is present at the home on many occasions when staff arrives in the morning and Butch's son is present at the home on many weekends.

**Declaration of Mike (Butch) Smith, Jr. in Opposition to Motion to Terminate Authority of Agent for Healthcare** filed 05/31/13 states: This dispute stems from issues concerning visitation of conservatee. Declarant states that he and his father (petitioner, Michael Smith) have had disagreements in the past regarding visitation, however, they have entered into a stipulation concerning visitation.

Within minutes after returning home from the court hearing appointing the Public Guardian as conservator, Declarant was contacted at conservatee's house by a member of the Public Guardian's staff and a daytime caregiver. Declarant and his mother, Robin, were informed that they could not be at the home between 11am and 7pm. Declarant states that the office for his business is located in the house and he was subsequently allowed to enter the house during daytime hours for business purposes.

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The daytime caregivers do not bathe or dress conservatee. Declarant and his mother take care of those essential needs. He often will not eat the lunch they prepare for him because they don't make him what he likes. To keep his mind active, Declarant often takes conservatee with him when he goes out for certain business functions and to visit family and friends. Declarant enjoys the conservatee's company.

Petitioner's allegation that Declarant refuses to leave conservatee's medications in the house or allow Anjaleoni staff to administer any medications is a gross distortion of the facts. Declarant states that he leaves conservatee's inhaler, which is the only necessary daytime medication. The other medications are administered by Robin and Declarant as prescribed in the morning and the evening. Petitioner's allegation that medication is to be administered at 2pm and 7pm is not correct. The main drug at issue is Risperidone which is prescribed to treat sundowner's symptoms. Declarant states that he has been informed by conservatee's doctor that Risperidone is very potent and carries the risk of certain adverse side effects, including, paradoxically, an increase in agitation. At the end of February 2013 conservatee started to exhibit tremors, which he never had before. In mid-March 2013, Declarant learned that the staff was administering Risperidone to conservatee in the afternoon. However, the staff did not leave the log book or notify either himself or Robin of any changes in conservatee's medication. Declarant states that he was concerned that the increased dosage in Risperidone contributed to the tremors. Conservatee's physician told Declarant that even one Risperidone carries the risk of inducing tremors. In March 2013, the staff obtained an additional prescription for Risperidone from a second doctor, thus two different doctors were writing prescriptions for Risperidone for the conservatee and Declarant was extremely concerned about this.

Declarant states that the allegation that he is sometimes not present at the home when the caregivers arrive is false. He states that he is always present when the caregivers arrive and he administers the daytime medications before he leaves. There are no afternoon medications to administer and he gives the conservatee his evening medication when he returns in the evening.

Declarant states that Petitioner's allegation that he administered his own inhaler to conservatee is not accurate. Declarant states that he and the conservatee have a prescription for the same inhaler (Albuterol Sulfate). He has no knowledge of conservatee using his inhaler, but if he did, it's inconsequential because it is the same medication that's prescribed for the conservatee.

Declarant states that the allegation that he refuses to keep the Anjaleoni staff or conservator informed of conservatee's appointments is not correct. He states that he provides 24 hour advance notice to the daytime staff. Further, you never know what conservatee will be doing from one day to the next, sometimes he will make plans to go somewhere and sometimes he changes his mind. Declarant states that he never forces conservatee to come with him.

Declarant states that he has not provided incorrect information to staff and the conservator about prescriptions and dosing of medications. Further, he did not unilaterally decide to stop giving the conservatee some of his prescribed medications, especially Risperidone, during the day. Declarant states that the daytime staff obtained a second prescription for Risperidone from a second doctor. The benefits provided by Risperidone are often evaluated in subjective terms, balancing the agitation against the side effects, including tremors. Declarant does not want a situation where conservatee is turned into a Zombie because of excessive medication for agitation.

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The allegation that conservatee's overall health and well-being appear to have deteriorated significantly since Declarant was given control over his medical care is a damn lie. Declarant states that throughout this entire period, his focus has been on conservatee's care. Conservatee was always proud and independent. Declarant and his mother work every day to allow conservatee to continue to live as independently as possible, in his own home, with regular social contact with family and friends. If Petitioner had his way, conservatee would be shut away in an old folk's home. Conservatee, who served in the Pacific theater as a Marine during WWII and who was a farmer and rancher his whole life would never want to be shut away.

Petitioner alleges that the staff is concerned that conservatee's heart medication is not being administered as directed. Declarant is not aware of "heart medication". He is prescribed and administered medications for cholesterol, high blood pressure, and Plavix.

Declarant states that it is and has always been his intention to treat conservatee with the dignity and respect he earned during a long, hard-working, and honorable life. He saw how his grandmother, Jean Smith, was treated when she was placed in a home after Petitioner and the Public Guardian were appointed as her conservator. He has a picture of her lying on the floor of the facility "so she wouldn't fall". Declarant brought her a mat and pillow for her basic comfort. Declarant vowed that conservatee would receive better treatment and have devoted years to caring for him as he aged.

Petitioner continues to use conservatee as a vehicle to engage in conflict with Declarant. Whatever the family disputes, conservatee's care rises above everything. Petitioner seems to have a different agenda, perhaps tied to his concerns about his prior financial dealings with the conservatee,

Atty Amador, Catherine A. (for Michael H. Smith, Sr. – son/Petitioner)

Atty Krbechek, Randolph (for Michael Smith, Jr. – Objector)

Atty Motsenbocker, Gary (for Public Guardian – Conservator)

Atty Jaech, Jeffrey (for Ben H. Smith – Conservatee)

## Status Hearing Re: Mediation

Age: 85	PUBLIC GUARDIAN was appointed Conservator of the Person and Estate on 01/13/13.	NEEDS/PROBLEMS/COMMENTS:
	MICHAEL H. SMITH, JR., grandson, retains the authority to make all medical decisions for the conservatee pursuant to an advance health care directive signed by the conservatee on 06/17/11.	THIS MATTER IS TO BE HEARD AT 4:00 PM
Cont. from	On 05/24/13, MICHAEL H. SMITH, SR., son, filed a Motion to Terminate Authority of Agent for Health Care.	<u>Note:</u> The parties are to participate in Mediation at 2:00 pm on 06/17/13.
Aff.Sub.Wit.		
Verified	Minute Order from hearing on 06/07/13 set this matter for status and states: Also present in the courtroom is Youa Her. The Court directs that Ben Smith be seen by Dr. Sherriffs. The Court further directs that Michael Smith, Jr. and a representative of the Public Guardian be present during the visit with Dr. Sherriffs. The Court orders that Dr. Sherriffs be informed of what has been going on with Ben Smith during the day and evening. The Court orders counsel to submit a status report regarding what occurred with Dr. Sherriffs. Parties agree to participate in mediation on 06/17/13 at 2:00 p.m. Mediation to include Michael Smith, Jr., Michael Smith, Sr., and the Public Guardian. Mr. Fischer is directed to keep the Court apprised of the status of mediation.	
Inventory		
PTC		
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Notice of Hrg		
Aff.Mail		
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Pers.Serv.		
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Duties/Supp		
Objections		
Video Receipt		
CI Report		
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Order		
Aff. Posting		
Status Rpt		
UCCJEA		
Citation		
FTB Notice		

Reviewed by: JF
Reviewed on: 06/12/13
Updates:
Recommendation:
File 1C – Smith